

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL L. BLUMENTHAL,)	
)	
Plaintiff,)	Court No. 07 C 7230
vs.)	
)	
MATTHEW H. ANSELMO,)	Judge Joan B. Gottschall
M & M MARKETING, L.L.C., and KATHRYN)	
HEMENWAY)	
)	Magistrate Michael T. Mason
Defendants.)	

**PLAINTIFF'S OBJECTION TO DEFENDANT ANSELMO'S
MOTION FOR AN EXTENSION OF TIME TO ANSWER**

Now comes the plaintiff, MICHAEL L. BLUMENTHAL, and for his objection to Defendant, MATTHEW H. ANSELMO's Motion for an Extension of Time, states:

1. On February 4, 2008, Plaintiff received a copy of motion by Defendant Anselmo requesting a "continuous to answer" [sic] together with a notice of motion and certificate of service.
2. First, Plaintiff notes that Defendant Anselmo has not filed any appearance to date.
3. Secondly, the certificate of service filed with the motion purports to state that Defendant Anselmo e-mailed to Plaintiff or his attorney a copy of his motion and notice thereof.
4. As set forth in the affidavits of Michael L. Blumenthal and Martin A. Blumenthal attached hereto and made a part hereof and marked as Exhibits "A" and "B", respectively, neither individual received any e-mail whatsoever from Defendant Anselmo or any other individual acting on his behalf, regarding this motion as of February 4, 2008, contrary to Defendant Anselmo's representations set forth in his purported certificate of service, and contrary to the rules of this court.

5. In the body of his motion, Defendant Anselmo represents to this court that he sought legal advice from an attorney in Omaha, Nebraska. Presumably any attorney would have advised Defendant Anselmo of his responsibilities regarding proper and timely filing of an appearance, as well as service of all pleadings, motions and other papers upon opposing counsel. Defendant Anselmo represents that this unnamed attorney failed to advise Defendant Anselmo of the need to file his appearance and answer until the day his appearance was due.

6. With regards to Defendant Anselmo's allegations that his attorney in Omaha did not inform him until January 24, 2008 that he required local Illinois counsel, Plaintiff offers the following text message exchanges which took place between January 8, 2008 and January 14, 2008:

Blumenthal 1/8/08 1:12 p.m.:

Can I get ur attorneys name please?

Anselmo 1/8/08 1:55 p.m.:

which one

Blumenthal 1/8/08 2:43 p.m.:

ur choice

Blumenthal 1/9/08 11:11 a.m.:

Have u made a choice?

Blumenthal 1/14/08 2:12 p.m.:

Do you have an attorney yet?

Anselmo 1/14/08 2:13 p.m.:

yes i have an attorney

Blumenthal 1/14/08 2:13 p.m.:

Can I have his name?

Anselmo 1/14/08 2:14p.m.:

what do you need it for

Blumenthal 1/14/08 2:15 p.m.:

So I can talk with him about the case.

Anselmo 1/14/08 2:16p.m.:

they will contact you if they need to or have questions.

thanks.

7. According to Defendant Anselmo's text message, he had spoken to a local attorney in Omaha more than ten (10) days before the filing deadline. His suggestion that the attorney sat on the matter until the January 24, 2008 deadline, is highly unlikely.

8. Regardless of whether or not any attorney sat on the matter, Defendant Anselmo was aware of Plaintiff's motion to default which was noticed up for January 31, 2008 to which Defendant Anselmo made no effort to respond or even to contact Mr. Blumenthal or his attorney to discuss the matter or the issue of Defendant Anselmo's lack of counsel.

9. It is respectfully submitted that Defendant Anselmo's request is designed simply to delay and frustrate a resolution of this matter, and this Court should deny his motion as presented. It is further suggested that Defendant Anselmo's failure to appear or contact the court or counsel in response to the Plaintiff's Motion for Default Judgment, is further evidence of his lack of diligence.

WHEREFORE, the Plaintiff, MICHAEL L. BLUMENTHAL, respectfully prays this Honorable Court deny Defendant Anselmo's Motion for an Extension of Time to Answer the Complaint.

Respectfully submitted,

MICHAEL L. BLUMENTHAL, Plaintiff

By: /s/ Michael L. Blumenthal
One of His Attorneys

Martin A. Blumenthal
Attorney for Michael L. Blumenthal
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Northfield, IL 60093
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email: marty@blumenthallaw.com
Attorney I.D.# 6180069

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Attorney I.D. # 6183007

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AFFIDAVIT OF MICHAEL L. BLUMENTHAL

MICHAEL L. BLUMENTHAL, being first duly sworn on oath, deposes and states as follows:

1. That your Affiant is the Plaintiff in the above-entitled cause, is an adult of legal age, competent to testify and has personal knowledge of the facts set forth herein as well as those set forth in the complaint and motion filed herein.

2. That if called to testify I would competently testify as follows:

3. That he has read Defendant Anselmo's Motion filed January 28, 2008 together with the Certificate of Service purportedly dated January 24, 2008.

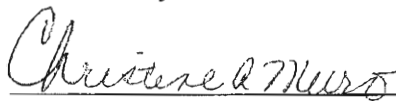
4. Contrary to the representations made in the purported Certificate of Service, at no time did Your Affiant or his office, on any of his email accounts, whether or not they are registered in the CM/ECF service, receive a copy of Defendant Anselmo's Motion or Notice of Motion at any time prior to our receipt of same from the Clerk of Court on February 4, 2008.

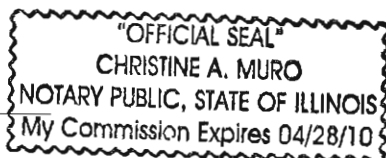
5. That Your Affiant has read the attached Objection to Defendant Anselmo's Motion for Extension of Time to Answer and certifies and verifies the facts contained therein and further certifies and verifies that the motion contains an accurate transcription of the text messages exchanged between the Plaintiff and Defendant Anselmo between January 8, 2008 and January 14, 2008.

6. FURTHER AFFIANT SAYETH NOT.


MICHAEL L. BLUMENTHAL

SUBSCRIBED and SWORN to
before me this 4th day
of February, 2008.


Notary Public



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AFFIDAVIT OF MARTIN A. BLUMENTHAL

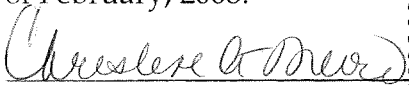
MARTIN A. BLUMENTHAL, being first duly sworn on oath, deposes and states as follows:

1. That your Affiant is the attorney for the Plaintiff in the above-entitled cause, is an adult of legal age, competent to testify and has personal knowledge of the facts set forth herein as well as those set forth in the complaint and motion filed herein.
2. That if called to testify I would competently testify as follows:
3. That he has read Defendant Anselmo's Motion filed January 28, 2008 together with the Certificate of Service purportedly dated January 24, 2008.
4. Contrary to the representations made in the purported Certificate of Service, at no time did Your Affiant or his office, on any of his email accounts, whether or not they are registered in the CM/ECF service, receive a copy of Defendant Anselmo's Motion or Notice of Motion at any time prior to our receipt of same from the Clerk of Court on February 4, 2008.
5. **FURTHER AFFIANT SAYETH NOT.**



MARTIN A. BLUMENTHAL

SUBSCRIBED and SWORN to
before me this 4th day
of February, 2008.



Notary Public

